

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS Nos.4300/1998 to 4501/98

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SPL.LAQ OFFICER

Versus

MOHANBHAI NARSINHBHAI VANKAR

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Appearance:

MR HL JANI for appellants  
MR AB MUNSHI, JAYESH M PATEL AND SHITAL R PATEL for  
the respondents.

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CORAM : MR.JUSTICE M.R.CALLA and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 07/05/99

COMMON ORAL JUDGEMENT (M.R.Calla, J.)

This batch of 202 First Appeals is directed  
against the common judgment and order dated 23-1-1998

passed by the learned IInd Extra Assistant Judge, Kheda at Nadiad in Land Reference Cases Nos.1125/94 to 1134/94, 1135/94 to 1138/94, 1166/94 to 1176/94, 1192/94 to 1194/94, 1210/94 to 1222/94, 1223/94 to 1228/94, 1335/94 to 1352/94, 1390/94 to 1397/94, 1398/94 to 1408/94, 1417/94 to 1430/94, 1431/94 to 1448/94, 1449/94 to 1453/94, 1547/94 to 1561/94, 1580/94 to 1588/94, 1597/94 to 1603/94, 1605/94 to 1609/94, 1983/94 to 2002/94, 2084/94 to 2087/94, 2121/94 to 2135/94, 2189/94 to 2193/94, the main Land Reference Case being No.1604/94. Whereas the appeals are directed against the common judgment and order as aforesaid and all these appeals are based on identical facts involving common questions, therefore, we propose to decide this by this common judgment and order.

2. In these cases, the lands of Village Lasundra, Taluka Kapadwanj in District Kheda were acquired for Narmada Project Main Canal. The notifications under Sec.4 of the Land Acquisition Act were issued in different dates from 9th May, 1990 to 1st December, 1990. It has been given out that about 166 hectares of land was acquired from different land owners. There is no dispute that the entire land is irrigated land and there are about 168 wells thereon. The notifications under Sec.6 were issued on different dates between 22nd March, 1991 and 25th October, 1991. The Land Acquisition Officer passed awards on different dates in different groups of cases (18 groups in all) between 16th January, 1993 and 1st November, 1993. In some groups, the Land Acquisition Officer has granted compensation at the rate of Rs.1.50 per sq.mtr. and in some cases at the rate of Re.1/- per sq.mtr. as against the claim of the claimants at the rate of Rs.100/- per sq.mtr. In the references which were made under Sec.18, at the instance of the claimants, the Reference Court has granted compensation at the rate of Rs.19/- per sq.mtr. in all the cases.

3. On behalf of the claimants, the witness Vinubhai Narsibhai was examined at exh.112 whereas no oral evidence was tendered by the department. On behalf of the claimants, the Village forms No.7/12 exhs.26 to 11 and exh.127 to 304 were filed. The case of the claimants was that on the lands in question, crop of tobacco, paddy, cotton, wheat and vegetables and fennel seeds are sown. The department has rest contended by filing the certified copy of the statement of a witness Mohanbhai Purushottamdas Brahmhatt, i.e. the deposition made by this witness as an agricultural expert in some other case as exh.307 and the report of the agricultural valuer, namely Shri Omprakash Panday was also produced by the

claimants. No sale instances were produced from either side.

4. It is, therefore, clear that except the oral evidence of Vinubhai Narsibhai, there was no other evidence either on behalf of the claimants or on behalf of the department and the department has rest contended by producing the certified copy of the deposition of Mohanbhai Purushottamdas Brahmbhatt at exh.307. Reference has been made to sale index exh.115 but no witness has been examined to prove the same. The document at exh.117 shows that there were 168 wells on the lands in question. The department also filed at exh.116 the final anavari of Village Lasundra for the years 1991-1997, i.e. average crop pattern and a document exh.188, i.e. figures with regard to the rains for the years 1983 to 1996. The details of the documents produced by either side have been given under the heading of Reasoning in paras 8, 9 and 10 as under:

"the claimants have deposed at Ex.112 and the documentary evidences were also filed by all the claimants as under:-

Exs.26 to 111 - Village Form No.7-12(Certified copies)

Exs.127 to 304- Village Form No.7-12 ( " )

Ex.305 - Price list issued by Kapadwanj Co-op. Cotton Sale Ginning & Pressing Society.

Ex.307 - Certified copy of deposition of Mohanbhai Brahmbhatt, in L.A.Q. No.356/94, being an expert.

Ex.308 - The schedule list given by witness showing actual yield, costs and net profit.

Ex.309 - Assessment for the well situated in the acquired land for agricultural land of village Monghroli and the amount paid to that effect.

Ex.306/3 - The witness of the Opp. Govt. who has prepared the Schedule for yield and costs on the basis of

the Silver Jubilee Magazine, book  
published from Baroda.

9. Written-Arguments are adduced at Exh.319,  
and the closing pursis is at Ex.318.

10. On behalf of the opponents, witnesses  
were not examined but the following documents are  
produced:-

Ex.115 - A Sale Index of last five years  
sale.

Ex.116 - Final Anavari of Village Lasundra  
from 1991 to 1997.

Ex.117 - Copy of the well Register in form  
No.16.

Ex.118 - Rent figures from year 1983 to  
1996 of Kapadwanj Taluka.

Ex.119 - Scarcity declared in Kapadwanj  
Taluka by notifications for the  
years 1985 to 1992.

Ex.120 - Map of Kapadwanj Taluka limit.

Ex.121 - List issued by Executive Engineer  
for the wells situated in the  
acquired land.

Ex.122 - Judgment of Hon'ble High Court,  
for not awarding a compensation  
for well. The land was assessed  
as irrigated land.

Ex.123 - Notification of scarcity.

Ex.124 - Copy of Well Register.

Ex.125 - Valuation Register of well.

Ex.318 - Closing pursis.

Ex.320 - Written arguments.

Ex.322 - Price lists issued by Kapadwanj  
Agri. Produce Market Committee  
for years 1989 to 1991."

In the facts and circumstances of the case, the Reference Court has applied the yield method to assess the rate of compensation and it has been held that the claimants were entitled to compensation at the rate of Rs.19/- per sq.mtr.

5. We had an occasion to consider an identical group of matters in which on identical fact situation, the Reference Court has awarded compensation at the rate of Rs.20/- per sq.mtr. in case of the lands of Village Anthroni which is about 11 kms. from Village Vasundra. That group of First Appeals Nos.4682/98 to 4807/98 (126 in all) was decided by us on 30th April, 1999. The subject matter of challenge in the present group of 202 appeals is almost identical to the one which we decided in the group of 126 appeals as aforesaid. All the lands are irrigated lands situated in Kapadwanj Taluka itself in Kheda District. Mr.H.L.Jani has submitted that the final anavari, i.e. average crop pattern for the years 1991 to 1997 at exh.16 and the rain figures at exhs.118 and 119 have not been taken into consideration by the Reference Court. That may be so, but we called upon Mr.H.L.Jani appearing for the appellants to show as to how all these documents would have made any significant impact on the question of deciding the rate of compensation in the present cases. The average crop pattern depends upon various facts and similarly the rain figures and the incidence of scarcity for certain years are also those natural events or calamities which cannot impinge upon the quality or fertility of the land as such. So far as the agricultural produce of tobacco, paddy, cotton, wheat, vegetables and fennel in total area of 166 hectares is concerned, there is no dispute. Therefore, we find that even if the Reference Court has not considered the average crop pattern at exh.116 for the years 1991 to 1997 or rain figures of 1983 to 1996 at exh.118 and the scarcity notification etc. the same has not caused any prejudice to the case of the appellants on the question of determination of the rate at which the compensation has been granted. In these matters taking an overall view of the entire material which was available with the Reference Court, in the absence of any oral evidence as such by the department, we find that the rate of Rs.19/per sq.mtr. at which the compensation has been granted by the Reference Court as against the claim of the land owners at Rs.100/- per sq.mtr. is neither excessive nor disproportionate and, therefore, the impugned orders do not warrant any interference in these appeals.

The net result is that all these 202 First

Appeals fail and the same are hereby dismissed. In the facts and circumstances of the case, no order as to costs.

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